



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 CIVIL APPLICATION NO. 2088 OF 2013
WITH
FA/2245/2012

KARBASAPPA NAHADAPPA MITKARI
VERSUS
UNION OF INDIA AND ANOTHER

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Advocate for Applicant : Mr. Vijay Bhalerao Patil
Advocate for Respondent No.1 : Mr. M. N. Navandar
AGP for Respondent/State: Mr. V. M. Chate

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WITH
X-OBJECTION NO. 24 OF 2024
IN FA/2245/2012

...

CORAM : ARUN R. PEDNEKER, J.
DATE : 18th MARCH, 2024

PER COURT:

1. Heard.
2. The learned counsel for the applicants submits that respondent no.1A – Sushilabai W/d. Karbasappa Mitkari has expired and he has filed purshish to the effect that the legal heirs of the respondent are already on record in terms of respondents no.1B and 1C.

3. The necessary amendment to be carried out. The learned counsel for the applicant is also permitted to carry out the necessary amendment in Civil Application No.2088 of 2013 for withdrawal of amount.

4. In Civil application No.2088 of 2013, the applicant has placed on record the order dated 16.12.2014, passed in Civil Application No.2087 of 2013 in First Appeal No.2248 of 2012 and submits that the applicants in the connected appeal has been permitted to withdraw the amount as indicated in the order. He submits that the same order may be passed in the instant application.

5. The learned counsel for the respondent has admitted that such an order is passed and the same order can be made applicable. As such, the same order can be made applicable to the present application also.

6. In view of the same, the applicants are permitted to withdraw the amount on the same terms and conditions as mentioned in the order dated 16.12.2014, which is quoted below:-

“...

3. Accordingly, civil application is allowed and disposed of by passing following order.

(A) The applicants are allowed to withdraw 25 per cent of the amount deposited, on submitting an undertaking to the reference court that in the event the applicants are directed to re-deposit the amount, they would re-deposit the amount before the reference court within a period of one month from the date of decision in the appeal.

(B) The applicants are also allowed to withdraw 25 per cent of the amount deposited on furnishing solvent security of like amount to the reference court.

(C) The applicants are further allowed to withdraw 25 per cent of the amount deposited on furnishing bank guarantee which shall be alive throughout the life of the first appeal.

(D) The remaining 25 per cent of the amount be kept in a fixed deposit in a nationalized bank earning highest interest.”

7. The amounts to be disbursed after the necessary amendment is carried out.

8. Civil Application No.2088 of 2013 stands disposed of.

[ARUN R. PEDNEKER, J.]

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